1: Evans-Pritchard E-5 (1931, 1936) 1940
FJ22 Nuer FJ22

684 claim a cow on the marriage of a female child of his adultery. Even when the husband is not impotent, if the adulterer can show that there is fruit of his adultery he can claim back the cattle he has paid as an indemnity, except for a cow known as *yang kule*, the cow of the sleeping-skin, which has ritual significance. But adultery within a small local community is probably rare because the people are all related to one another, and therefore a man considers that not only would it be wrong to commit adultery with their wives but also that it would be, in a greater or lesser degree, incestuous. If the two men are close kinsmen the adulterer provides an ox for sacrifice but is unlikely to pay an indemnity. If they are not close kinsmen the husband may try to seize the adulterer's cattle, but he only takes this step if he actually catches the offender committing adultery. The adulterer, to avoid a fight, runs away, and if he fears that his cattle may be seized he places them in the kraals of friends and kinsmen. This makes it difficult for the husband to seize them, for even if he knows where they are he does not want to involve himself in quarrels with a number of his neighbours by raiding their kraals. Nuer do not consider it immoral to commit adultery with the wives of persons living in other villages. If the husband discovers the offence he may try to seize the offender's cattle, but in doing so he runs the risk of resistance and some one may get killed and a feud result. A herd is the joint property of brothers, even though it is divided among them, and they do not readily acquiesce in the loss of cattle on account of adultery. In my experience it is very seldom indeed that a man obtains compensation for adultery. Adultery with the wife of a man of another tribe is a matter of no importance. What can he do anyhow?

684 836 Likewise fornication with an unmarried girl is compensated by payment of a heifer and a steer. But it is most unlikely that the payment will be made. If the girl's kinsmen know that she is having relations with a man who possesses cattle and is likely to marry her they turn a blind eye to the affair. If he has no cattle, or if the girl is already engaged, and one of her brothers catches him in congress with her he fights him, unless, as usually happens, the man runs away, for it is not considered cowardly to run away in these circumstances. The girl's kinsmen may then come to his kraal and, if he possesses them, take a male calf and a female calf, and if they are strong enough they may not be resisted. This is what Nuer tell one, but I have never known any one pay a male and a female calf, although after every dance I have seen the youths and maidens have paired off and there has been much promiscuous intercourse and very little effort to conceal it. It frequently

2:Evans-Pritchard E-5 (1931, 1936) 1951
FJ22 Nuer FJ22

kind, in which coitus, when it takes place at all, is only part of a more complex relationship. The lover-sweetheart relationship has within it the purpose or pretence of marriage. Very likely a particular courtship will not develop into marriage, but courtship is the recognized prelude to matrimony, and if a youth wants favours from his sweetheart, he must persuade her of his intentions. A love affair tends, therefore, to be a marriage courtship, and for this reason the pattern of the husband-wife relationship in the first stage of married life intrudes into it, and the pair act towards one another with the conjugal reserve of this stage. So strong is the cultural idea of marriage that, though devoid of irksome restraint and inhibitions, the path of sex life runs from childhood towards that union and, though circuitous, leads always to wedding, home, and family. Marriage is the end of a full sex life. After he is married a man settles down to care of herds and gardens, and goes less and less to dances, and ceases to take much interest in girls. I was told that should he wish to have an affair with a girl his wife would have no objection and would probably help him in it. Women, on the other hand, once they are married, ought not to have relations with men other than their husbands.

Men now expect to marry younger than in the last generation, when, I was told, a man would not usually marry before he was 25 to 30. Fathers were wont to say that they would themselves marry again, for these young wives would in any case go to their sons when they were dead. At what age a youth marries today depends on the size of his family, his place in it, whether his father is dead, the size of his family herd, and other circumstances.

As a rule, girls marry round about 17 or 18, though one sometimes sees an unmarried girl of over 20. If a girl is betrothed early the wedding and consummation ceremonies are delayed. Women, therefore, have their first children at an age when they are well fitted to bear them. So long as a girl is married to a man with cattle she has fairly free choice of a mate. Much depends on whether the girl's family approve of the man's family. In theory, the parents choose their daughter's husband and only formally ask her consent, which she should give in duty to her parents, for marriage is not her business but the business of her menfolk. In fact, it is very difficult for parents to force their daughter to marry a man she dislikes, and strong-minded girls stand up against family pressure on this issue.

2:Evans-Pritchard E-5 (1931, 1936) 1951
FJ22 Nuer FJ22

588 legal family in opposition to this natural family and the genitor
594 can become pater to the children. If the woman leaves him, his position is then equivalent to that of a man who has divorced his wife, but has left part of the bridewealth with her family to retain his children.

842 It is clear from the facts I have recorded that Nuer do not attach great importance to physiological paternity. Men prefer to beget their own sons, but it is not ignominious to nurture children begotten by others. Nuer pay little regard to the manner of begetting so long as the legal fatherhood of the child is well established. This is particularly evident in their ideas about adultery, and a consideration of them will serve also to emphasize that Nuer acknowledge social and mystical links between a child and his natural father.

● 837 It is adultery if a man has relations with another man's wife, including ghost-wives and leviratic wives. I was struck among the Nuer both by the frequency of adultery and the infrequency of quarrels or even talk about it. Nuer seem to treat the matter lightheartedly, and not to be at all ashamed of their adulteries. In speaking of adultery, it is the risk of being speared or clubbed if caught in the act, or having to pay compensation to the husband if he finds out what is happening, that they bring to the fore. Adultery in their eyes is an illegal but not an immoral act.

684 The legal position is as follows. When a husband has proof of his wife's infidelity he may claim compensation of six cows and, as the adulterer's kin are unlikely to support him, the husband will probably, if the two men live in the same district, receive the cattle. Nuer regard adultery in the husband's home as a more serious offence than adultery in the bush because they believe that it is more likely to cause the husband sickness. Adultery is a double damage: it is an infringement of rights and it can injure the husband's health.

If after the six head of cattle have been paid a healthy child is born of the adulterous congress, five of them must be returned, because 'the cattle and the child must not meet in one place'. Otherwise, the cattle paid in compensation partake of the nature of a legitimatization fee and hence give the genitor a claim on the child. The birth of a child seems to be thought to change the compensation for an adultery (*ruok*) into a fee for legitimatizing a child (also *ruok*). I only discovered this convention after I had left

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

CHAPTER IV

THE VIOLATION OF RIGHTS IN WOMEN

1. ADULTERY

NUER courts come into operation only when a recognized wrong is committed, when the validity of some claim is in dispute, or when a man is unable to obtain his rights in cattle from a kinsman, relative-in-law, or debtor. The courts do not operate unless one of the parties resorts to them for one of these reasons, except in cases which are now in the nature of criminal offences: homicide, affray, assault, for example. The law is only clear when the law is broken, and it is in the analysis of disputes brought before the courts that the principles of Nuer law most clearly emerge. Disputes over marriage, that is, over the transfer and distribution of bridewealth or more probably over the return of bridewealth cattle in the event of divorce, do not usually appear before the courts unless a combination of circumstances makes a friendly settlement impossible; and it is symptomatic of the process of social disintegration now taking place in Nuerland that obligations in this connexion are increasingly ignored. In the past a man could only obtain redress if the sanctions for recognized rules of conduct operated with sufficient effect on the wrongdoer or if he had the physical strength, with the support of public opinion, to obtain his rights by force. Adultery, which is in no sense a criminal offence according to Nuer concepts, is now a common cause of legal dispute. There is reason to believe that adultery was less frequent in the past simply because the fear of physical retaliation was greater, and in a sense because acts which are now called adultery were not then treated as adultery at all.

We have seen that the Nuer do not attach great importance to physical paternity. It is legal paternity which is the primary object of marriage, but this does not mean that the relations of the sexes are indiscriminate and uncontrolled, or that a man will not resent encroachment on his exclusive rights to his wife's body. Every Nuer aims at attaching as many children to his name, and through himself to his paternal lineage, as possible. An old man will sometimes allow or even invite a stranger to have intercourse with his wife so that he may have children to further his name and interests in posterity. Whoever may be the physiological father of the children, his legal paternity is in no way impaired. As will be seen later, a man who is impotent may do likewise, though he is not likely to advertise the fact, for impotence is the object of scorn and ridicule among the Nuer.

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8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

684 837 Despite this general attitude to physical paternity, and despite the fact that birth out of wedlock is in no sense ignominious, a Nuer who is in full possession of his physical powers will bitterly resent an intrusion, and adultery is reckoned a serious infringement of a husband's rights. A husband will take violent steps to prevent it, and it is commonly recognized that a man caught in adultery runs a risk of serious injury or even death at the hands of the woman's husband. There are not, however, nowadays many instances of physical violence or injury arising from adultery (as among some Sudan tribes), and the injured husband will usually resort to the courts.

Adultery is a wrong which demands indemnification in the form of cattle, and this is nearly always enforced by the courts unless circumstances are considered to mitigate the offence. The compensation for adultery[1] (*ruok ciek*) is six head of cattle, and this is common to all Nuer tribes. Of these, five are considered to be direct compensation for the injury caused to the husband, and the sixth, *yang kule*, 'the cow of the sleeping-skin', has a ritual significance. It is considered dangerous for a man to sleep with his wife after she has had intercourse with another man. She is in a state of impurity, and a return to conjugal relations will bring misfortune to them both unless expiation is made by the guilty party. The *kul* or sleeping-skin is symbolic of conjugal relations.

Cattle Returnable if a Child is born of the act of Adultery

684 848 The majority of Nuer tribes west of the Nile, the Zeraf tribes and Lou (but not Eastern Jikany), consider that if a child is born of an adulterous union, then all cattle paid previously as compensation must be returned by the husband with the exception of *yang kule*. The reason is not far to seek if we consider the logical principles which underline the concept of legal parenthood already described.[2] It is not so much because the adulterer is considered to have done the husband a service in begetting a child on his behalf—although I have often heard Nuer give this as the reason for the return of the cattle—but because the five head of cattle paid as compensation (*ruok ciek*) have the flavour of legitimization fees (*ruok gaanke*). Unless they are returned there may be confusion of legal concepts. Subsequently, and especially if the marriage was dissolved, the adulterer might claim the child as his legal right.[3]

[1] *Dhu*, lit. 'fornication with'. *dhu ciek* therefore means adultery, while if a child is born of the act, it will be called *ruet ciek*. *Ruok ciek*, or more precisely *ruok dhu ciek* or *ruok ruet ciek*, means compensation for adultery.

[2] See Legitimacy of Children, pp. 128–35.

[3] Nuer say that the cattle and the child must not be in the same place together—'they may not meet'. Moreover, the aggrieved husband will always get rid of these cattle as soon as possible even if a child is not born. In the interim between acceptance and their ultimate disposal he will keep them with a friend and well apart from his

8:Howell E.G-5 (1942-1944)1954
FJ22 Nuer FJ22

and its consequences which he runs in resuming sexual relations with his wife. *Yang kule* is both indemnification and spiritual expiation.

(ii) If a child is born of the act of adultery, the five head of cattle must be returned to the adulterer to avoid any possibility of confusion over the legal paternity of that child, but *yang kule* must always remain with the husband.[1]

Application of these Principles depends on Circumstances

Adultery is therefore an offence because it amounts to an infringement of the legal husband's physical rights in his wife, and also a wrong against the ritual status of the husband which may be impaired by his wife's impurity. This is the law, although its application will depend on a variety of circumstances: the physical condition of the husband and of the wife; the morals of the wife and the age of the wife; the position in the social structure of the parties concerned.

Impotence of the Husband

The physical potency of the husband is sometimes questioned by the defendant, and if the point is proved, the court will rarely enforce the payment of compensation or even of *yang kule*. A man's physical rights in his wife will not be guarded or upheld by the law if he cannot take advantage of them, nor is he likely to suffer any ritual impurity if he is unable to have sexual relations with his wife.[2] On the other hand, it may be argued that the legal husband has acquired rights in his wife by the transfer of cattle to her kin, and if he is unable to enjoy those rights personally, at least he is entitled to dispose of them as he pleases. This at any rate would carry the theory of rights acquired by the transfer of cattle to its logical conclusion, but the Nuer do not look at it in quite this way. We have seen that impotence is recognized as a ground for divorce on the part of the woman, and a man who is impotent has failed in his duties as a husband. In these circumstances he should be pleased that his wife has borne him a child, whoever the father may be. To the Nuer, if he is not pleased, he ought to be.

In cases of this sort a court will sometimes enforce the payment of *yang kule*, though by no means always, but will certainly never allow a claim for the rest of the accepted number of cattle. The concept reflects not so much a definite law as a circumstance which any court

[1] That this rule has been altered by recent legislation will be clear later.

[2] There is, I think, a conscious distinction here. If the husband is impotent and unable to have intercourse with his wife, then there is no risk of the impurity which the *yang kule* is intended to neutralize. If he is able to enjoy sexual intercourse with her, but is sterile and unable to beget children, then the adulterer will still be protected against liability for full compensation (*ruok ciek*), but is liable to pay *yang kule*. The husband, though sterile, still runs the risk of contamination.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

684 833 837 will consider in assessing the wrong and the amount of compensation to be paid. It is a plea which is frequently raised by defendants to a charge of adultery and is, of course, not easy to prove. Evidence is based not so much on the statement of the wife as on general reputation (and it must be remembered that in the intimate life the Nuer lead there is not much which can be concealed), and also on the existence or otherwise of other children and the evidence of co-wives if there are any.

Barrenness of the Wife and Age of the Wife

684 837 It is sometimes held that adultery with a woman who is known to be barren is not an offence, though this view is certainly not universally held. Adultery with a woman who has borne several children and is elderly is also considered a minor offence and rarely requires compensation, especially if she has adult children. At most *yang kule* will be demanded in these circumstances.[1]

Morals of the Wife

684 837 593 The temperament and morals of the wife are also factors which a Nuer court will consider. If the husband, usually a man who has been absent from home for a long time, brings charges of adultery against two or more men and the charge is proven, the court will order that each shall pay part of the compensation.[2] There is a limit to this. Nuer consider that a woman who has had sexual relations with more than three men is a *ciek me jok*, a 'loose woman', and that the men concerned cannot be held responsible. For this reason the defendant or defendants in a case of adultery will often attempt to prove that the woman has committed adultery with a fourth man. In this case a court will not enforce the payment of compensation, or of *yang kule*, though, if a child is born of one of them, it may compel him to pay *yang kule*. In such circumstances, the husband will often institute a divorce against his wife, and if there is any dispute between himself and his wife's relatives, a court will usually take his side.

Jal Bath v. *Gai Nyal* (*Thiang: Central Nuer Appeal*)

Jal Bath claimed compensation (*ruok ciek*) from Gai Nyal on grounds of adultery with his legal wife Nyandeang. A child had been born in consequence of the act of adultery, or so Jal alleged. This was admitted by Gai. (It was in his interests to do so.) Jal claimed *yang kule* only, but Gai refused to pay. The matter was taken to court and Gai ordered to pay. Some months later,

[1] This was recorded at the Nuer Chiefs' Council Meeting of 1945: 'When a man commits adultery with a woman who has adult sons or daughters, he is only liable to pay *yang kule* and not full compensation.'

[2] E.g. if two men, each will pay three head of cattle, if three men, each will pay two head of cattle.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

Gai appealed on the grounds that he had evidence that Nyandeang had committed adultery with three other men, Koh Col, Ngwom Diu, Top Bath, and had done so during the same period as with Gai, and in the absence of Jal. Appeal court accepted this evidence as true. Jal then stated that he did not deny the allegations of Gai, though he had not heard of them before, but the evidence was not relevant to the case. He had claimed *yang kule* only, not full compensation. He admitted Gai was father of the child, and so did Gai. Court upheld previous judgement and ruled that Jal should keep the *yang kule*.

Questioned on the legal issues involved, the court held that if a man has sexual intercourse with a woman who is the legal wife of another, he is liable to pay six head of cattle which include *yang kule*. If she bears a child attributed to the act of the adulterer, five head must be returned, *yang kule* remains. The fact that the woman is proved to have committed adultery with other men, if more than three men are involved, absolves all of them from paying compensation whether a child is born or not, but if one of them is proved to be the father of the child, he must still pay *yang kule*.[1]

Compensation cannot be Claimed more than twice where one Woman is Concerned

It is also generally held that a man cannot claim compensation for adultery with his wife (the same wife) on more than two occasions. After the fulfilment of two claims of this sort, in which he may have received no less than twelve head of cattle, his wife acquires the reputation of being 'loose'. He will certainly not succeed in a claim instigated out of court, and it is extremely unlikely that a Nuer court would uphold his claim. Moreover he may well be suspected of exploiting his wife's physical charms to his own advantage.

Adultery with Widows

When a woman whose husband is dead has sexual relations with a man without the express permission of her husband's legal heirs, damages for adultery may be claimed, but the right is not often exercised. It depends on a variety of circumstances, particularly the age of the woman, for, if she is young and attractive, one of her husband's kinsmen will wish her to live with him. As we have seen, the main object in the minds of the dead husband's kinsmen is that the woman shall bear children to his name, and they are usually prepared to give her a wide choice, provided she does not go to live too far away from them. They will often object if she goes to live with a man whom they have not accepted as her lover (*lum*), and they will also object

[1] See recent legislation on this subject, p. 167. The idea is a Nuer one, but the exactitude is the result of legislation prompted by the Administration.

11:Evans-Pritchard E-5 (1931, 1936) 1945
FJ22 Nuer FJ22

The attitude of the kinsmen depends largely on the widow's behaviour. 587
If she refuses to live with one of them but consents to remain in their 768
village, as a member of their *gol* or homestead, and there bear children to
her dead husband by a man who is not of their kin they cannot easily find 593
fault with her, and even if she has not borne her husband two children
they are unlikely to divorce her for the children she bears are not only
legally of their kin but are born amidst them and reared by them.

A widow is always asked at the gathering of her husband's kinsmen at [764]
his mortuary ceremony, on "the day of evil" (*cang giekni*) when they
purify the mourners and send the ghost away from them, whom she
wishes to live with. I was told that if she refuses the sons and brothers of 587
her dead husband they ask her *Ceke, guri bi wa lum dor kie bi lum cieng?* 768
"O woman do you wish to become a concubine away from the village or 593
to be a concubine at home?" A Nuer told me that on such an occasion 837 ●
Cek me kere wide yar be lar "Ghan gan ca be wa lum gwadh dodien, Me ca 591
gat coada gur, ba lum golkun", "A woman who is not a fool will say, 'I
will not seek a lover in another place. Though I do not want a son of my
husband I will take a lover in your home'". She will then cohabit with
a member of her husband's village, maybe one of his more distant male
kinsmen, maybe a villager of a different clan. Everyone is satisfied with
this arrangement, for she still remains a member of their *gol* and her lover
is a member of their village and he not only begets children for them but
also becomes the protector and bread-winner of the surviving members
of their dead kinsman's family. Sometimes the lover is not a member of
the dead man's village but is a man of a neighbouring village who visits the
widow there from time to time to cohabit with her and assist her in horti-
cultural labour.

Widows who decide to leave the homes of their dead husbands often
return to their own people and take lovers in the villages of their brothers.
Thus, as will be seen later in the charts and diagrams referring to the
village of Nyueny, we often find matrilocal and patrilocal residence side
by side owing to the return of widows, bringing their children with them,
to the homes of their kinsmen. It thus often happens that children are
brought up among their maternal relatives.

Often widows neither remain in the homes of their dead husbands nor 587
return to their kinsmen, but go to live with lovers, sometimes in different 768
districts and even in different tribal areas. If their children by their 593
husbands are small they may take them with them so that during child- 591
hood they are members of the households of the lovers of their mothers.
These men act as foster-fathers to the children.

It is impossible to say in advance which course a widow will pursue.
Much depends on the character and social position of the husband's
kinsmen and upon the strength of kinship sentiment among them. If
there are full brothers of the dead man they may consider it their duty as
well as their privilege to retain the services of "their wife", especially if
she is young and they are unmarried. If there are only half-brothers of
the dead man and still more if there are no brothers at all but only cousins,
they have less control over the widow and less sense of obligation to the

11:Evans-Pritchard E-5 (1931, 1936) 1945
FJ22 Nuer FJ22

588 A man is content to pay a fee to obtain possession of any children he may
581 beget by an older woman. Nuer also often speak of a girl who has had a child by a youth who states that he is willing to marry her as soon as he has sufficient cattle, as a *kea*, but no one would refer to her as such once the ritual of marriage has been performed.

588 We may speak of a man, the unmarried woman with whom he lives, and the children born of the woman and begotten and legitimatized by the man as a simple natural family. The family which springs from widow-concubinage is a complex group in that all the members except the widow's mate are members of a different and legal family as well as members of the natural family, for the genitor can never pay a fee to legitimatize his natural children. When a man begets children by an unmarried woman there is no legal family in opposition to the natural family so that the position of genitor in relation to his children is much more secure. Although the woman is not married to the man we cannot deny the word "family" to this group because its members live together as a household on the pattern of the legal family, at any rate for some years. If the woman leaves him the position of the man is equivalent to that of a man whose wife has been divorced and whose bride-cattle have been returned except those left with her kin to legitimatize the children.

V

848 It is clear from what I have already recorded that Nuer do not attach
842 great importance to physiological paternity and that they are far from regarding bastardy with repugnance. Men prefer to beget their own sons but it is not ignominious to nurture children begotten by others. Nuer pay little regard to the manner of begetting so long as the legal parentage of the child is well established. Nevertheless, the links between a genitor and the child he has begotten is not a purely physiological one, even when the genitor is neither nater nor foster-father. The act of begetting creates a social relationship between genitor and natural son and they are bound to one another by a mystical tie. This relationship will be better understood later but it may shortly be illustrated here by a few remarks about adultery (*dhom*).

837 Yet another union which may result in the birth of a child is adulterous congress with a woman during the lifetime of her husband (or of her mate in ghost-marriage or leviritic marriage). Coming from a people (the Azande of the Nile-Congo divide) where adultery cases are very common at the present day, I was at once struck with the absence of cases, quarrelling, and even talk about the subject in Nuerland. Nevertheless, I believe that adultery is frequent both with married women who are travelling a long way from their homes and with women in their husband's villages. Nuer have often described to me how they have committed adultery and were not the least ashamed to talk to me about their adventures. They treat the matter light-heartedly. If you are caught in the act you may be speared or clubbed but if you are not caught in the act you can compensate the injured husband. They do not speak of adultery as though it was a highly immoral act but only as a risky and possibly expen-

11:Evans-Pritchard E-5 (1931, 1936) 1945
FJ22 Nuer FJ22

sive act. If they have begotten children by the wives of other men they are rather proud of this evidence of their virility. 837

The legal position about adultery is as follows: If a man finds another committing adultery with his wife they will probably fight, though the adulterer will escape if he can because he does not wish to add homicide to adultery. But often enough either the husband does not know that adultery has been committed or cannot catch the adulterer in the act. If the husband is unfertile or impotent he may pretend that he is unaware of his wife's infidelity because, while he desires children, he does not wish people to think that he is condoning adultery. However, a young man is not likely to take this line. A Nuer said: "An impotent man (*luc*) who is young does not think of children but of his rights. When he is old he thinks of children and is willing that his wife should give birth in the bush (by a stranger)". Sometimes a man knows that a neighbour is committing adultery with his wife but is afraid that if he fight him he will be injured. If a man is ignorant of his wife's infidelity and she bears him no ill-will she may tell him about it because it is considered dangerous for a husband to sleep with his wife on the skin where she has committed adultery. 837 684

When a husband has proof of his wife's infidelity he may claim compensation of six cows and, as the adulterer's kin are unlikely to support him on a charge of this kind, the husband will probably receive the cattle. But if later a healthy child of the adulterous congress is born five of these cows must be returned, because "The cattle and the child must not meet in one place". The cattle paid in compensation are thought to give the genitor a claim on the child for they then partake of the nature of a legitimatization fee. The payment by the adulterer would be changed by the birth of a child from compensation (*ruok*) for adultery to a fee (*ruok*) for the child. I was unaware of this fact when I lived among the Eastern Nuer and it may be restricted to the Western Nuer. I am uncertain whether even among the Western Nuer the cattle are invariably returned but it is believed that if they are not returned the child may die and his ghost haunt his pater.

The cow that remains in the husband's kraal is called *yang kula*. The payment renders innocuous the action of the husband in having relations with his wife on the same skin on which she had relations in adultery. In most of the cases of adultery mentioned in this paper either the cattle were returned on the birth of a child or they were never paid, for often when the husband is old he does not claim compensation.

Among the Western Nuer when it is well known that a girl is a bastard begotten of a certain man, the genitor will sometimes claim "the cow of begetting" on her marriage. Her kin do not relish handing him over a cow but they often do so because there is a mystical link between father and daughter and if he does not receive a cow of her bride-wealth he may curse her so that she may not bear children or so that her children will die and haunt their pater. The husband's people are therefore anxious that a cow shall be paid that their wife may be fruitful. 585 848 431

The verb *ruok* is used to describe the paying of compensation. Thus one says *Ca ghok Galuak rok ka dhom cek Yang*, "The cattle of Galuak 684

11;Evans-Pritchard E-5 (1931, 1936) 1945
FJ22 Nuer FJ22

Homestead No. VI. Rainen ♂—Ngwoth ♂. He lives here with his legal wife, Nyadang ♀—Col ♂, by whom he has begotten two sons and five daughters. His byre has fallen down and his cattle are housed in the byre of homestead No. V. The mother of Wang ♂, the owner of this byre, shares a hut with Nyadang ♀. During my visit a Dok girl was living here as unmarried concubine to Rainen's eldest son, Nhial ♂.

Homestead No. VII. Juan ♂—Tien ♂ (brother of Yang ♂ of homestead No. XIX). He lives with Nyaghok ♀, one of his father's widows. His mother, Tikjac ♀, a Lek woman, also lives at his home. Tikjac ♀ bore her husband two sons, Yang ♂ and Juan ♂, and two daughters, Nyayoah ♀ and Nyathai ♀. She is now past child-bearing. Tien's second wife, Nyaghok ♀, a Dinka woman, committed adultery during her husband's lifetime with one of his distant agnatic kinsmen, called Deng. A boy, Dadou ♂, was born of this adulterous congress. He also lives in this homestead. After Tien's death Nyaghok ♀ cohabited with his son, Juan ♂, to whom she bore a daughter, Mer ♀. See Diagram No. VIII.

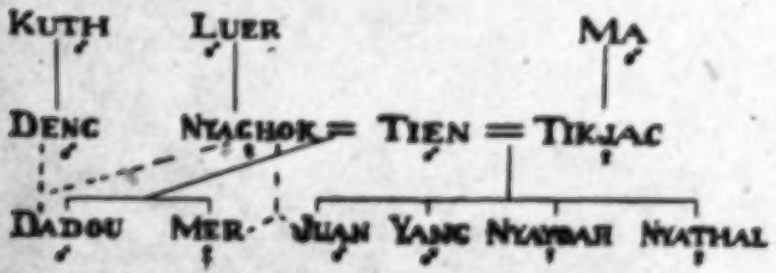

Diagram VIII

Homestead No. VIII. Nyaruithni ♀—Kwenwar ♂, the widow of Rwacar ♂. She is now past child-bearing and does not cohabit with any man. During Rwacar's lifetime she bore two children, but neither by him, both being the fruit of adultery. Her daughter, Nyakewa ♀, who was killed this year by lightning, was begotten by Luin ♂—Kwany ♂, a Lek tribesman, and her son, Maiith ♂ was begotten by Gak ♂—Yol ♂, a Jikany tribesman. Her brother's son, Gai ♂—Karlual ♂, lives in her byre and looks after her herd.

Nyaruithni's sister, Nyaudol ♀—Kwenwar ♂, paid a visit to her homestead this year. When Nyakewa ♀ was killed by lightning Nyaudol's husband, Yoah ♂, was killed at the same time. Nyaudol ♀ says that since she is now a widow she will remain at Nyueny with her children by Yoah ♂: Weetwok ♂, Bilieu ♂, Gatdwiel ♀, and Nyankeni ♀.

Homestead No IX. Karlual ♂—Kwenwar ♂. He first married Nyakuon ♀—Kok ♂. She died without children and the cattle were returned (Tang ♂—Karlual ♂ married a wife with them). Karlual ♂ then married

582 in turn helps the brother just younger than he, and so on until all are supplied with the wherewithal to get married.

The oldest daughter in a family is likewise given in marriage before her younger sisters.

Should a man have children by two wives, if one wife dies, her son—even though he may be younger than the sons of the other wife—may be allowed and helped to get married before they do, the object being to supply him with a housekeeper as speedily as possible. His half-brothers are not supposed to be in as urgent need since they have their mother to cook for them.

593 After a wife goes to live with her husband permanently,
837 if he suspects that she is paying attention to any other man, he will probably beat her; or he may beat her for any other reason if he so desires. He finds his spiked bracelet specially useful at these times.

594 The greatest desire of a Nuer woman is for children. She realizes that as long as she can bear her husband children he will care for her. Should she fail him in this her position is insecure, and he, no doubt, will try to get another wife who will be able to give him his heart's desire. The mother also realizes that her children will care for
[596] her in her old age, even if her husband does take younger wives, so her children make her position in old age secure.

603 The oldest daughter (when several years of age) goes to live with her grandmother on her mother's side, providing her mother is the oldest daughter of her grandmother, or possibly this child may be the first grand-daughter. So the grandmother is assured of help in her old age.

CHILDBIRTH AND AFTER

843 One frequently wonders how babies do manage to live in Nuerland, when one considers how little care the mother receives at the time of their birth.

In certain respects the status
588 of an unmarried mother is inferior to that of the mother for whom bride-wealth has been paid,(1) but her position may be regularised at any time by payment of cattle to her lineage.

582 848 The rules of exogamy apply to simple legal marriages and to all other unions. Physiological paternity does not appear to be stressed by the Nuer, but what is important to them is that the legal parentage of a child should be well established. The various types of union practised give rise to various difficulties owing to the clash of interests which may occur when the legal pater of a child is not his genitor, or his foster father. These difficulties are least likely to arise in the simple legal family where sentiment and interests go together and inheritance is plain.

● 837 Adultery is not uncommon and, if it can be proved, the adulterer has to pay a fine of 6 cattle to the husband, except when a child has been born, for it seems that the adulterer has a claim on the child. If a man is caught in the act, he may be speared or clubbed.

BRIDEWEALTH

583 Instalments of the bridewealth are handed over by the bridegroom's family to that of the bride, *pari passu* with a series of ceremonial acts, until the union is completed by the birth of a child.

The ideal amount of bridewealth consists of 40 head of cattle, and of these 20 go to the father's side of the bride's family and 20 to the mother's side. The actual distribution in any particular marriage approximates as nearly as possible to the ideal distribution.(2)

The number of animals actually handed over is usually less than 40, but in all cases there is a minimum number without which marriage could not take place. Essential claims are settled at the first bridewealth discussion; those due to the maternal relatives have priority, as they represent a deferred payment standing over from the marriage of the bride's mother. Lengthy arguments take place over the remainder of the animals. Paternal and other kinsmen, whose relationship is not close enough to carry a title to a defined share of the bridewealth, may claim a small gift; the genitor of the bride has a right to a cow if he is not also her legal father.

Bridewealth has two main functions: in the first place it creates new social ties between persons and regulates their relations until these have become assimilated to kinship patterns; secondly, it determines the lineage affiliations of the children of the union.(3)

MARRIAGE CEREMONIES

584 A number of rites are necessary for the conclusion of a marriage, and the sequence of rites is linked with the transfer of cattle; thus, the performance of a given ritual is a recognition that the required number of

(1) Evans-Pritchard, "Some aspects of marriage and the family among the Nuer", 1930, p.229.
(2) Evans-Pritchard, *Africa*, XVI, 1946, p.249.
(3) Evans-Pritchard, *African Studies*, XI.4, 1947, p.185.

16: Evans-Pritchard E-5 (1931, 1936) 1956
FJ22 Nuer FJ22

through adoption, and close affinity. It is also incestuous for a man 835
to have carnal relations with the daughter of an age-mate and for two closely related persons of the same sex to have congress with a person of the opposite sex, even though that person is unrelated to them. A further reason is that Nuer regard incest as a venial offence if the partners are distantly related, and young men certainly often take the slight risk involved. It is easier to understand why incest outside the family and nearest kin is not infrequent if we consider it also in a general setting of sex relations. Nuer do 836
not object to girls having love affairs before marriage so long as they are reasonably discreet in them and give their favours to youths with cattle, who may at least be supposed to have what we call honourable intentions; and little opprobrium attaches to adultery, of which they speak light-heartedly and without disgust or shame.

Nevertheless, adultery (*dhom*), besides being a wrong done to 837
the husband by infringement of his rights, is a further wrong to 783
him in that he is polluted. A husband who discovers his wife *in flagrante delicto* may obtain summary justice by spear or club. Otherwise he demands compensation in cattle, and if the two men are members of the same local community he is likely to receive it. In addition to the cattle paid in compensation, the adulterer hands over to the husband an ox called *yang kula*, the ox of the (husband's) sleeping-hide. This is paid to protect the husband from the consequences of the adultery, known as *kor*, a concept of which one also hears much in Nuerland. *Kor* is a condition brought about by a man having congress with his wife after she [753]
has been unfaithful to him. All three persons are polluted, but if sickness results it falls on the husband, and it is most likely to fall on him if the adultery took place in his home. This sickness is also called *kor*, though it may be referred to as well as *juei kula*, sickness of the hide, or, on account of its symptoms, *juei letka*, sickness of the loins. I was told that it may prove fatal, though Miss Soule says that it is myalgia of the lumbar region. Nuer told me that 837
they learnt about *kor*, as they learnt about so many of the ideas 783
discussed in this book, from the Dinka and that it was also from 177
that people that they took over a preventive and curative treatment of it, *wal kore*, *kor* medicine, the tip of a buffalo's horn [757]
which is burnt, and its smoke inhaled. Their statement that the concept is a Dinka one is supported, among other evidences, by

16: Evans-Pritchard E-5 (1931, 1936) 1956
FJ22 Nuer FJ22

837 783 [177] the fact that the word *kor* has no further meaning in Nuer whereas in Dinka it is the verb for 'to commit adultery'.[1]

Adultery medicine is probably used only as a precaution and perhaps in addition to sacrifice if a man falls sick and the symptoms suggest *kor*. The main safeguard and remedy is sacrifice, and in cases where the adulterer is known he hands over the *yang kula* for this purpose. It is generally conducted on behalf of the husband by some religious functionary, perhaps a leopard-skin priest or a man who respects *kor* (a man who has himself at some time suffered from it and has recovered), in the presence of the families and friends of the parties involved. He or another person first invokes God that the sick man may recover. Immediately the ox has fallen the adulterer and his friends take hold of its head and forelegs, and the husband and his wife and friends of their family take hold of its hindlegs while the man who is conducting the rite cuts the carcass in two through the loins.[2] The *yang kula* is sacrificed to wipe out the pollution whether the husband falls sick or not. That it has this significance is shown by the fact that when, for reasons I have set forth elsewhere,[3] in the event of a child being born of adulterous congress the cattle paid in compensation, or others in their stead, are returned to the adulterer, the *yang kula*, if it has not yet been sacrificed, remains with the husband for that purpose, and if it has been sacrificed he is under no obligation to return another ox in its place; and by the fact that if the husband forgoes compensation, as he may do if the adulterer is a close agnatic kinsman and neighbour, the *yang kula* must be paid to protect him from evil consequences. It is not part of the *ruok*, the compensation, but is handed over in addition to it, and for a different purpose. Even the cattle of compensation are tainted for the husband. He keeps them away from his own cattle, putting them in the care of a friend or kinsman well away from his own homestead, and he rids himself of them as soon as he can, either by marrying with them or by giving them to one of his brothers for the same purpose. I was told that above all he would

[1] P. A. Nebel, op. cit., pp. 13 and 88. The noun form *akor* means 'adultery'.

[2] Dr. Mary Smith tells me that if a man suffers from *kor* and the adulterer is unknown the officiant holds the forelegs while someone else cuts through the carcass (of a sheep). She says that in the part of Nuerland she resides in the idea of *kor* is no longer prevalent.

[3] 'Some Aspects of Marriage and the Family among the Nuer', *Zeitschrift für vergleichende Rechtswissenschaft*, 1938, pp. 332–4.

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FJ22 Nuer FJ22

not drink their milk and that should he even tread on their dung he might cause grave injury either to himself or to his cattle. Likewise, a man will not accept as bridewealth for his daughter cattle paid to her husband in compensation for adultery she has committed. This is a shocking idea to Nuer, who say that it is like incest.

The pollution may spread (*dop*) beyond those directly concerned in it. The adulterer, the husband, and the wife are dangerous to anyone they come into contact with who has an open sore, for the *kor* may enter him through it. One day at a wedding a youth was trying to reconcile his desire to watch the dancing with the need to hide an open wound from the eyes of those who might cause it to fester, by watching the dance from the shelter of maize plants. I heard his mother shout to him in reprimand 'there you stand in the maize where people can see you. Is *ther* (p. 176) a good thing, and is *kor* a good thing, that you thus expose yourself?' It is largely from fear lest an adulterer or adulteress or cuckold might see them that lads are so closely secluded while they still have open wounds on their foreheads after initiation. Adultery may also cause a wife who has been partner to it to suffer in childbirth, and if she finds the pains of labour grievous she will make known to the midwife any adulterous acts she may have committed. The sin and its consequences become less by being confessed.

Another dangerous influence is that brought about by a man having congress with his wife while she is nursing a child. Responsibility rests with the husband, 'for this is an affair of men, and it is not a woman's business to deny her husband access'. As has been noted, this is an offence that comes within the category of *nueer*, but the specific name for it is *thiang*. This word denotes the act itself, the consequences which follow from it, and the rite performed to ward off the consequences. Since children are not weaned till they are about three years old it might be thought that husbands must often give way to temptation, but one seldom hears of a wife becoming pregnant before her child at the breast is weaned, and Nuer themselves say that it is uncommon. I cannot say whether a husband who commits the offence would generally perform the prescribed rites unless the pregnancy of his wife made it common knowledge. In the only cases I have come across action was taken when it became evident that a nursing mother was pregnant. I was told that it was then taken to ward off the